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By: Craig R. Hastings, Att'y at Law, 409 Duff, PO Box 1794, Ames, IA 50010 (515)232-2501

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
SOUTH FORK TOWNHOMES**

The undersigned, being all of the Owners of the Townhome Lots in South Fork Townhomes, hereby adopt the following Declaration of Covenants, Conditions and Restrictions for South Fork Townhomes. This Declaration shall be effective 06 December, 2004 and affects the real estate now legally described as:

Lots 1 to 6 in South Fork Townhomes Subdivision, First Addition, Ames, Iowa

and any additional lots that the Developer may subject to this Declaration from time to time as provided in this Declaration.

**I. PURPOSE.** This Declaration is adopted for the benefit of the owners of lots in the subdivision known as South Fork Townhomes Subdivision, First Addition, Ames, Iowa, by providing for the proper management of the of the lots and residences located on the lots in the subdivision.

**II. NATURE OF COVENANTS.** The undersigned hereby declares that all of the real estate described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real estate and be binding on all parties having any rights, title or interest in the described real estate and any part thereof, their heirs successors and assigns, and shall inure to the benefit of each Owner thereof.

**1. DEFINITIONS.**

**A.** "Association" shall mean and refer to South Fork Townhomes Association, L.C., its successors and assigns, limited liability company organized pursuant to Chapter 490A of the Code of Iowa as amended.

- B.** “Association Responsibility Elements” shall mean the following:
- (1) The exterior surface of the Buildings upon the Townhome Lots, excluding windows, doors, patios and decks (provided, however, that this Declaration regulates the windows, doors, patios and decks as provided herein).
  - (2) The roof, gutters and downspouts of the Buildings upon the Townhome Lots.
  - (3) The yard surrounding the Buildings upon the Townhome Lots, including trees and shrubbery, but excluding planting beds (if any are planted by an Owner) in the four feet adjacent to the front of the Building.
  - (4) Streets, driveways and sidewalks upon the Townhome Lots.
- C.** “Board of Directors” shall mean and refer to the Board of Directors of the Association.
- D.** “Building” shall mean and refer to any single-family attached or detached dwelling unit that may be constructed on a Townhome Lot or a part of more than one Townhome Lot, and shall include any attached or detached garage building conveyed with the Lot.
- E.** “Common Area” Declarant states that there are no common areas in the First Addition.
- F.** “Declarant” shall mean and refer to South Fork Townhomes, L.C., an Iowa Limited Liability Company and its successors and assigns, if such successors or assigns acquire all Townhome Lots owned by the Declarant for the purpose of resale or development.
- G.** “Declaration” shall mean and refer to this Declaration of Covenants, Conditions and Restrictions to which the Properties are subject.
- H.** “Living Unit” shall mean and refer to any portion of a Building situated upon a Townhome Lot and designed and intended for use and occupancy as a resident by a single family or individual.
- I.** “Townhome Lot” (sometimes referred to as the Lot) shall mean and refer to the numbered lots shown on the recorded plat of the Properties.
- J.** “Member” shall mean and refer to those persons entitled to membership as provided in the Articles of Organization of the Association and the Operating Agreement of the Association.
- K.** “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Townhome Lot, but excluding those having such interest merely as security for the performance of any obligation, and excluding those having a lien upon the property by provision or operation of law. A vendee in possession under a recorded contract of sale of a Townhome Lot shall be deemed the owner of the Townhome Lot.

- L. "Properties" shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**2. ASSOCIATION RESPONSIBILITY ELEMENTS AND OWNER RESPONSIBILITIES.**

**A. Maintenance, Repair and Replacement by the Association.**

(1) The Association, subject to the rights of the Owners as set forth in the Declaration, shall be responsible for the maintenance, repair and replacement, for the exclusive benefit of the Owners, of the Association Responsibility Elements, and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with the standards of sound property management.

(2) No person other than the Owner of a Townhome Lot and his invitees shall have the right to enter upon, use or affect an Association Responsibility Element located within a Townhome Lot, except that the Association and its designates may enter upon a Townhome Lot and the Buildings located thereon at reasonable times for the following purposes:

a. Installation, repair, removal, replacement, maintenance or inspection of an Association Responsibility Element, including, but not limited to:

i. Mowing and maintenance of the yard surrounding the Buildings upon the Townhome Lots, including trees and shrubbery, but excluding planting beds (if any are planted by an Owner) in the four feet adjacent to the front of the Building.

ii. Shoveling and snow removal from streets, driveways and sidewalks upon the Townhome Lots.

b. Enforcement of any provision of this Declaration or the Articles of Incorporation or the Bylaws of the Association.

**B. Owner's Responsibilities with Respect to Association Responsibility Elements and Windows, Doors, Patios and Decks.**

(1) Association Responsibility Elements. In the event that the need for maintenance, replacement or repair of any portion of the Association Responsibility Elements is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, lessees, guests or invitees of an Owner, the cost of such maintenance, replacement or repair shall be added to and become part of the assessment to which the Owner is subject and a lien upon the Townhome Lot of such Owner and shall become due and payable upon demand.

(2) Windows, Doors, Patios and Decks. Each Owner shall maintain, repair and replace the windows, doors, patios and decks of the Owner's Building at the Owner's expense. Any repair or replacement shall be made in the style, color and quality of the windows, doors, patios and decks of the other Buildings so as to maintain a uniform aesthetic appearance of the Buildings. No repair or replacement shall be made without the prior approval of the Board of Directors.

(3) Failure to Maintain. If the Board of Directors determines that an Owner has failed to properly maintain, repair or replace a window, door, patio or deck, the Association shall have the right at the discretion of the Association to make such repairs or replacements and charge and assess the cost thereof against the Owner who violates this section and such cost shall become a special assessment and a lien upon the Townhome Lot of such Owner and shall become due and payable upon demand.

**C. Collection of Assessments for Maintenance, Repairs, and Replacements.**

The Association shall have the same rights and powers to collect the cost of such restoration as provided in Article 4 for the collection of delinquent assessments. If an Owner interferes with the rights and privileges of another Owner in the use of the other Owner's Townhome Lot, the Association or the offended Owner may commence an action to enjoin such interference and the prevailing party shall be entitled to recover such reasonable attorneys' fees as the Court may allow together with all necessary costs and disbursements incurred in connection therewith.

**3. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.**

**A. Membership.**

Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Townhome Lot. Ownership of a Townhome Lot shall be the sole qualification for membership. When more than one person owns any Townhome Lot, all such persons shall be Members.

**B. Votes.**

Each Owner shall be entitled to one vote for each Townhome Lot owned. When there is more than one Owner of any Townhome Lot, the vote for such Townhome Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Townhome Lot.

**4. COVENANT FOR ASSESSMENTS.**

**A. Creation of the Lien and Personal Obligation of Assessments.**

Each Owner of any Townhome Lot, by becoming an Owner, is deemed to covenant and agrees to pay the Association: (1) annual assessments or charges, payable in such installments as the Association shall determine, (2) special assessments for capital improvements and operating deficits, and (3) other annual, regular or special assessments, including that for insurance, as provided in this Declaration; such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the Townhome Lot against which each such assessment is made. This lien shall be senior to all liens except a first mortgage of record and any ad valorem taxes. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Owner of such

Townhome Lot at the time when the assessment falls due. The personal obligation for delinquent assessment shall not pass to this Owner's successors in title unless expressly assumed by them.

**B. Purpose of Assessments.**

The assessments levied by the Association shall be used exclusively:

- (1) to promote the health, safety, and welfare of the Members;
- (2) for the performance of the Association's duties with respect to the Association Responsibility Elements; and
- (3) and for other purposes specifically provided herein.

**C. Annual Assessments.**

The current annual assessment for a Townhome Lot is \$840.00, payable in monthly installments on the first of each month or on such other day of the month as set by the Board of Directors.

- (1) The annual assessment may be increased effective January 1 of each year not more than 10% above the assessment for the previous year without a vote of the Owners.
- (2) The Board of Directors shall fix the annual assessment at an amount not in excess of the amount established above.
- (3) The annual assessment may be increased by more than 10% above the assessment for the previous year by a vote of the Owners.
- (4) A portion of such annual assessments shall be set aside or otherwise allocated in a reserve fund for the purposes set forth in B. above.

**D. Special Assessments.**

In addition to the annual assessments authorized above the Association may levy, in any calendar year, a special assessment applicable to that year only for any of the following purposes:

- (1) for defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an Association Responsibility Element;
- (2) for operating deficits which the Association may from time to time incur; or

**E. Notice and Quorum for an Action Authorized under Sections C and D.**

Notwithstanding any provision in the Operating Agreement to the contrary, written notice of any meeting called for the purpose of taking any action authorized under Section C. or D. shall be sent to all Owners not less than 30 days, nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes of the Owners shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding

meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**F. Uniform Rate of Assessment.**

Both annual and special assessments must be fixed at a uniform rate for all Townhome Lots and may be collected on a monthly basis.

**G. Date of Commencement of Annual Assessments: Due Dates.**

The annual assessments provided for herein shall commence as to all Townhome Lots on 06 December, 2004. The Board of Directors shall fix the amount of the annual assessment against each Townhome Lot at their annual meeting. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon request, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Townhome Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Townhome Lot shall be binding upon the Association as of the date of its issuance.

**H. Effect of Nonpayment of Assessments: Remedies of the Association.**

Assessments shall be paid within the time period established by the Board of Directors. Any unpaid assessments shall draw interest at a rate set by the Board, not to exceed the maximum rate allowed by law, if not paid within the time period. In the event the Association retains legal counsel to collect any delinquent assessment, the Owner shall be liable for reasonable attorneys fees and costs incurred by the Association for collection, which reasonable attorney's fees and costs may be added to the lien provided below.

Any delinquent assessment shall be a lien against the Townhome Lot for which the assessment is owed, in addition to being a personal obligation of the Owner of the Townhome Lot at the time the assessment becomes delinquent. The Association may file a Notice of Lien on said lot in the Story County Recorder's Office at any time an assessment becomes delinquent, and such Notice shall constitute a valid lien against the Townhome Lot. The lien may be enforced as a mechanics lien or suit may be brought against the Owner personally obligated to pay the assessment.

**I. Subordination of Assessments Liens.**

If any Townhome Lot subject to a lien created by any provision in this Declaration shall be subject to the lien of a first mortgage of record: (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of such mortgage or the acceptance of a deed in lieu of the foreclosure by the mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment

of a receiver in foreclosure proceedings or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure and have not been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting Owner personally.

**5. MAINTENANCE OF TOWNHOME LOTS AND BUILDINGS.**

**A. Maintenance, Repair and Replacement by Owners of Townhome Lots.**

The Owner of each Townhome Lot shall furnish and be responsible for, at the Owner's own expense, all maintenance, repair and replacement of the Owner's Townhome Lot and all Buildings, structures, improvements and equipment located thereon, except for the Association Responsibility Elements.

**B. Failure to Maintain, Repair or Replace.**

If the Board of Directors determines that an Owner has failed to properly maintain, repair or replace Owner's Townhome Lot and all Buildings, structures, improvements and equipment located thereon, except for the Association Responsibility Elements, the Association shall have the right at the discretion of the Association to make such repairs or replacements and charge and assess the cost thereof against the Owner who violates this section and such cost shall become a special assessment and a lien upon the Townhome Lot of such Owner and shall become due and payable upon demand.

**6. INSURANCE AND INSURANCE ASSESSMENT FOR TOWNHOME LOTS.**

**A. Insurance and Insurance Assessment.**

(1) In addition to the annual assessments and the special assessments for capital improvements, the Association may levy assessments for insurance purchased by the Association. The Association shall obtain such directors and officers liability, general liability and casualty insurance as it deems appropriate for (i) any real or personal property owned by the Association (ii) the Association Responsibility Elements (iii) its Board of Directors and (iv) the bonding of its Treasurer and President as it deems reasonable and appropriate.

(2) The casualty insurance shall be "all risk" coverage for 100% of the insurable value for such of the Association Responsibility Elements as the Association determines to insure and for other property owned by the Association, providing for loss or damage settlement on a replacement cost basis. The insurance coverage obtained by the Association shall be written in the name and the proceeds thereof shall be payable to the Association.

(3) Each Owner shall be responsible for obtaining homeowner's liability insurance and casualty insurance for the Owner's Townhome Lot and Buildings (including all Association Responsibility Elements). The Owner agrees to carry, maintain and timely pay the premium or premiums on an insurance policy protecting the Townhome Lot and Building against damage or destruction by fire, lightning, windstorm, hail, explosion, vandalism and miscellaneous mischief, and all other hazards as are generally carried in the area under standard extended coverage provisions for at least the full replacement costs of the Buildings.

(4) Each Owner covenants that the insurance policy required herein shall be issued in the name of the Owner and the Association and that in the event of any loss or destruction, the proceeds thereof shall be payable to the Owner and the Association, except that in the event the recovery paid by the insurance company exceeds the actual amount required to repair or replace the damaged Building, such amount of excess will be payable to the Owner. The Owner shall annually furnish the Association with a certificate of insurance covering the insurance so maintained. In lieu of such insurance, the Owner may pledge cash or a surety bond with the Association in an amount not less than the amount that would have been required as the coverage amount of the insurance, on such terms as the Association may determine.

(5) In the event of damage to or destruction of the Building or other improvements on the Townhome Lot, the Owner shall promptly proceed to repair, rebuild and restore the Building or other improvements to a condition substantially similar to the condition it was in prior to the damage or destruction. The Owner shall be responsible for the costs of all such repairs, rebuilding or restoration which are covered by the insurance required above, including any out-of-pocket expense not covered due to deductibles, co-insurance or insufficiency of insurance recovery.

(6) If the Owner fails or refuses to perform the duties stated above in a timely manner, the Association may proceed to do so. Each Owner hereby irrevocably constitutes and appoints the Board of Directors (or any one of them to be designated by the Board) as the Owner's true and lawful attorney-in-fact, in the Owner's name, place and stead, and with full and complete authorization to collect the proceeds of the insurance described above, or any other insurance covering the damage or destruction, and proceed to cause the repair, rebuilding and restoration described above. The Owner shall have no claim against the Association or Board of Directors for performing these duties, other than a claim for any funds recovered which are in excess of the amount required to effect the repairs, rebuilding or restoration.

(7) If the funds recovered are insufficient to effect the repairs, rebuilding or restoration, the Owner shall promptly pay sufficient funds to the Association to provide adequate funds. If the Owner fails to do so, the Board of Directors may assess the amount required against the Owner's Townhome Lot and Building and such shall become a special assessment and a lien upon the Townhome Lot of such Owner and shall become due and payable upon demand. The Association shall have the same rights and powers to collect this special assessment as provided in Article 4 for the collection of delinquent assessments

(8) If the insurance proceeds of the insurance obtained by the Association are insufficient to cover the costs of repair or replacement of the insured property damaged and destroyed, and the special assessment together are insufficient to effect the repairs, rebuilding and replacement, the

Association shall make a reconstruction assessment against all Townhome Lot Owners to cover the additional cost of repair or replacement not covered.

(9) In the event of a casualty loss the Association and the Owners shall proceed to repair or replace the areas or structures which are their respective responsibility as expeditiously as conditions permit and in such a manner as to reproduce the characteristics of the area or structure before the casualty.

**B. Distribution to Mortgagee.**

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgage endorsement on the certificate of insurance. In such event any remittances shall be the Owner and his mortgagee jointly.

**C. Annual Review of Policies.**

All insurance policies acquired by the Association shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to cover the risks stated above.

**7. EASEMENTS AND ENCROACHMENTS.**

**A. General Easements.**

Each Townhome Lot shall be subject to the following easements in favor of the Association and the other Owners of Townhome Lots:

- (1) Every portion of a structure upon a Townhome Lot which contributes to the support of any structure not on the same Townhome Lot is burdened with an easement of such support.
- (2) Each Townhome Lot is burdened with an easement through the Townhome Lot and through the attic and basement of any structure thereon for conduits, ducts, plumbing, wiring, pipes and other facilities for the furnishing of utilities and services to other Townhome Lots, including the location of utility meters on one Townhome Lot for the service to other Townhome lots.
- (3) Each Townhome Lot is burdened with an easement of ingress and egress for construction, maintenance, repair and replacement of Association Responsibility Elements by the Association.
- (4) Each Townhome Lot is burdened with an easement for surface drainage for the benefit of all other Townhome Lots.
- (5) Each Townhome Lot is burdened with encroachment easement for minor encroachments of common walls due to settling, shifting or inexact location during construction.

- (6) Each Townhome Lot is burdened with easements for public utilities and sidewalks as may be shown upon any recorded subdivision plat.
- (7) Each Townhome lot is burdened with an easement through the Townhome Lot but outside of any structure thereon for purposes of reasonable ingress and egress by other Owners of Townhome Lots to the front and rear of the other Owners' Townhome Lots.

**B. Drainage, Utility and Sewer Easements.**

The Easement Grant filed with respect to South Fork Townhomes Subdivision, First Addition, designates certain areas of the Townhome Lots for easements for the benefit of the City of Ames, all Townhome Lots and Owners, to properly install and allow to be maintained all electrical, telephone, water, gas, sewer and other utility services, (including all lines, pipes, wires, cables, ducts, etc.) to the various Townhome Lots. No other improvements or permanent structures (excluding walkways, driveways and fences) shall be placed within such utility easements and any fences so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair or remove any necessary facilities and the right of the Association to provide for and maintain appropriate drainage.

**C. Additional Easement Rights of the Declarant.**

The Association reserves the right to more specifically describe or to change the description of any drainage, utility and sewer easement, or other easement, license or right-of-way by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Story County, Iowa; provided, however, the rights reserved in this Section C shall not be exercised in a manner which unreasonably and adversely affects any Building or portion thereof located upon any Townhome Lot or any Owner's use or enjoyment thereof or which unreasonably restricts the rights of ingress or egress to any Townhome Lot. The rights and easements reserved in this Section C shall run with the land.

**D. Easement for Emergency Purposes.**

An easement is hereby dedicated and granted for use in case of emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon the Townhome Lots and pedestrian walkways or sidewalks.

**E. Encroachment on Townhome Lots.**

If, by reason of the location, construction, settling or shifting of a Building, any part of Building containing a Living Unit upon a Townhome Lot (the "Encroaching Unit") encroaches upon any minor portion of any other adjacent Townhome Lot, then in such event, an exclusive easement shall be deemed to exist and run to the Owner of the Encroaching Unit for the maintenance, use and enjoyment of the Encroaching Unit and all appurtenances thereto. Upon the written demand from the Owner of an Encroaching Unit, the Owner of the Townhome Lot upon which said unit encroaches shall deed to the Owner of the Encroaching Unit that portion of the Townhome Lot upon which the Encroaching Unit is located. The deed shall be by quit claim deed, free and clear

of any mortgages and encumbrances. All costs of abstracting, releases of mortgages, recording fees, engineering fees and legal fees shall be paid by the Owner of the Encroaching Unit.

**F. Driveways, Street and Sidewalk Access for Townhome Lots.**

(1) An easement is hereby reserved and granted for the use of all Townhome Lots served by one common driveway. To the extent that a driveway or portion thereof serving a Townhome Lot is located partially or wholly on another Townhome Lot or Lots, the Owners served by such driveway shall have the benefit of an easement over that portion of the other Townhome Lot or Lots covered by the driveway.

(2) Further, there is hereby reserved and granted an easement for the benefit of each Townhome Lot served by a sidewalk and pedestrian walkway located partially or wholly on another Townhome Lot. This latter easement is for the purpose of allowing pedestrian access from the public or private street to the Townhome Lot served by such sidewalk or pedestrian walkway. No Owner shall obstruct or allow obstructions on any sidewalk or pedestrian walkway which would impair the use or access by the Owner which such sidewalk or pedestrian walkway serves.

**8. PARKING RIGHTS.**

Subject to the provisions of Paragraph 7.F. above, the paved driveway in front of each Owner's garage shall be for the exclusive benefit of such Owner and the Owner's family, lessees, invitees and guests. No one shall use these driveways for parking or storing of boats, snowmobiles, trailers, camping vehicles, or other recreational vehicles, or for parking of trucks or other commercial vehicles except temporarily. No bicycles, toys or other private property shall be allowed to obstruct any driveway, nor shall the same be stored in the open alongside building walls or other locations of public view. No vehicles shall be parked so as to impede access from or to any Townhome Lot or public street.

**9. PARTY WALLS.**

- A. Each wall which is built as a part of the original construction of the Buildings upon the Properties and placed on the dividing lines between the Townhome Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration and the rights of the Association, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts shall apply thereto.
- B. The costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- C. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

- D. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- E. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Townhome Lot and shall pass to such Owner's successors in title.

**10. ARCHITECTURAL CONTROL.**

No building, fence, wall or other structure, except as originally constructed by or on behalf of Declarant shall be commenced, erected, altered or maintained upon Properties, nor shall any exterior addition to or change or alteration therein, other than by the Association, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided.

**11. GENERAL USE RESTRICTIONS.** The following use restrictions shall be applicable to the Owners, Members, Buildings and Townhome Lots, as the context requires.

- A. All Townhome Lots shall be known, described and used solely as residential lots and no structure shall be erected on any Townhome Lot except by the Association or with its written consent.
- B. Building setback lines as shown on the plat of record shall be strictly followed.
- C. The public utility easements shown on the recorded plat are hereby reserved for utility installation and maintenance.
- D. No Townhome Lot shall be subdivided in any manner.
- E. No Townhome Lot shall be used for any kind of trade, business, or employment except as allowed herein, nor shall any Townhome Lot be used for multi-family dwelling, boarding house, or rooming house.
- F. The use of any open carport, driveway or parking area which may be in front of, adjacent to, or part of any Townhome Lot as a parking place for recreational or commercial vehicles or articles, including boats, is prohibited. All of said types of vehicles or articles shall be stored inside a garage at all times. No inoperable, dismantled or wrecked motor vehicles, trailers, automobiles or other vehicles or machinery or parts thereof including scrap metals of any type shall be permitted to be upon or remain upon any part of a Townhome Lot. This restriction shall furthermore apply to any vehicle, which though operable, is not in active use. This provision is intended to specifically prohibit vehicles which are not in active use from being left parked outside a garage for an extended period of time.

- G. No television or radio antenna, satellite dish or tower shall be erected upon the roof of any Building or upon any Townhome Lot or building in such a manner as to be visible from the exterior of the Building, except with the written permission of the Association and in accordance with rules adopted by it. Satellite or similar dishes may only be attached to Building on the rear of the Building in conformance with reasonable regulations adopted by the Association.
- H. Fencing shall not be erected on any part of a Townhome Lot.
- I. No swimming pools, tennis courts or similar structures shall be installed on any Townhome Lot.
- J. No Owner shall construct or modify any Association Responsibility Element.
- K. No rubbish container shall be visible from the street except on pick-up day and one day before and one day after pick-up day.
- L. All utility connection facilities and services shall be under ground. No individual water supply system or individual sewage disposal system shall be permitted on any Townhome Lot.
- M. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Townhome Lot except that dogs and cats may be kept, provided that they are not kept, bred or maintained for any commercial purposes. The Association may, by rules and regulations, prohibit or further limit the raising, breeding or keeping of any pet on any Townhome Lot. The Owner on whose Townhome Lot a person owns or keeps a pet dog or cat shall be responsible for and shall at all times clean up any waste or excrement from such pet(s). Failure to do so in a prompt or responsible manner shall result in a fine or special assessment by the Association against such Owner and the Owner's Townhome Lot. Should another Owner or Owners decide that a pet has become a nuisance to the other Owner or Owners, that Owner may file a note with the Board of Directors asking the Board to required the pet owner to take steps to resolve the problem. The Board shall consider the matter by receiving input from the pet owner and the other Owner or Owners either at a meeting convened for that purpose or by accepting written statements from the parties. The Board shall then determine what steps should be taken to resolve the matter (which may include prohibiting the pet owner from continuing to have the pet on the Properties, unless state or federal law prohibits such remedy) and communicate that decision in writing to the parties. The decision of the Board on the matter shall be final.
- N. No noxious or offensive activities not involving the maintenance of Townhome Lots shall be carried on upon any Townhome Lot nor shall anything be done thereon which may be or may become an annoyance or a nuisance; nor shall any Townhome Lot be used for any unlawful purpose. Nor shall any Owner cause, or suffer or harbor the source of, any noise or activity which disturbs the peace, comfort and quiet enjoyment of other Owners, their families, lessees, invitees or guests, or those claiming under or through other Owners.
- O. No personal property shall be stored or left upon the street side a Townhome Lot except within the Living Unit or garage located upon the Townhome Lot. Garage doors shall be kept closed except during times of access to the garage. Grills or patio furniture may be left in the area of a Townhome Lot between the Building and the Garage.

- P. No boat, snowmobile, recreational vehicle, trailer or other vehicle other than automobiles shall be stored or parked in any driveway. In the event of violation of this provision, the Association may, after reasonable notice, remove such boat, snowmobile, recreational vehicle, trailer or other vehicle.
- Q. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.
- R. Nothing shall be done or kept in any Townhome Lot which will increase the rate of insurance on the Association Responsibility Elements, without the proper written consent of the Board of Directors of the Association. No Owner shall permit anything to be done or kept in the Owner's Townhome Lot which will result in the cancellation of insurance on any Townhome Lot or the Association Responsibility Elements, which would be in violation of any law, or which may be or become a nuisance or annoyance to the other Owners.
- S. The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Townhome Lots, the Association Responsibility Elements and such rules shall be observed and obeyed by the Owners, their guest, lessees, assigns and licensees.
- T. Failure of the Association or any Owner to enforce any covenant, condition or restriction, this Declaration, the Articles of Incorporation or Bylaws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.
- U. Invalidation of any one of the covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

## **12. SIGNS AND HOME OCCUPATIONS**

### **A. Signs.**

No advertising signs of any kind except "for sale" signs or "for rent" signs shall be displayed on any Townhome Lot without the prior written approval of the Association. Further, no signs of any nature, kind or description shall be erected, placed or maintained on any Townhome Lot which identify, advertise or in any way describe the existence or conduct of a home occupation.

### **B. Home Occupations.**

No home occupation shall be conducted or maintained on any Townhome Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Townhome Lot and which is generally or regularly conducted in another location away from such Townhome Lot, provided the same is permitted under applicable ordinances.

**13. PUBLIC ACCESS.**

Officers, employees or contracted agents of any governmental unit shall have the right and authority to enter upon any Townhome Lot for the administration of general public services including fire protection, law enforcement, water service and animal control.

**14. GENERAL PROVISIONS.**

**A. Duration.**

This Declaration shall run with the land and shall be binding upon all Townhome Lots and Townhome Lot Owners for a period of twenty-one (21) years from the date of recordation in the office of the Story County Recorder. Invalidation of the covenants, conditions and restrictions of the Declaration by judgment or decree shall in no way effect any of the other provision hereof, but the same shall remain in full force and effect.

**B. Renewal.** Any Owner is empowered and authorized to file a Verified Claim with the Story County Recorder, at any time prior to the expiration of the current twenty-one (21) year term, in accordance with the requirements of Section 614.24, Code of Iowa. The filing of such Verified Claim shall cause these Restrictive Covenants to be extended for an additional twenty-one (21) year term from the date of such filing, for all lots in the subdivision. Additional Verified Claims, each extending these Restrictive Covenants for an additional twenty-one (21) year term may be filed in the same manner.

**C. Enforcement.**

If the Owner or person in possession of any Townhome Lot or portion of a Townhome Lot violates or attempts to violate any of the covenants or restrictions herein established it shall be lawful for any person or persons owning any other Townhome Lots in said plat to prosecute any proceedings in law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, either to prevent him or them from so doing or to require removal of any violating structure or improvement or to recover damages for such violation, and shall be entitled to recover reasonable attorneys fees and costs and expenses as a result thereof.

**D. Amendment.**

This Declaration may be amended or changed at any time by an instrument recorded in the Office of the Recorder of Story County, Iowa, signed and approved in writing by two-thirds (2/3) of the then Owners. Any such amendments shall be recorded.

**E. Notice to Mortgagees.**

The Association, upon request, shall provide written notification to any lender holding a first mortgage upon any Townhome Lot specifying the defaults of the Owner of such Townhome Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of


Incorporation of the Association, its Bylaws or any other applicable documents which default has not been cured within sixty (60) days.

**F. Annexation.**

(1) Additional residential property and Common Area may be annexed to the Properties by the Association with the consent of two-thirds (2/3) of the Owners.

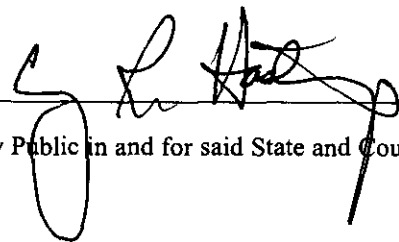
(2) The Declarant, its successors and assigns, reserve the right to add additional residential property and Common Area to the properties at the discretion of the Declarant as long as Declarant owns at least one Townhome Lot. Such additional residential property shall be subject to this Declaration. Such addition shall be accomplished by Declarant recording a document in the office of the Story County Recorder designating the additional property to be added and subjecting that additional property to this Declaration. Should the additional property include any Common Areas, Declarant shall consult with the Board of Directors for the purpose of agreeing upon additional provisions to be added to this Declaration by amendment.

SOUTH FORK TOWNHOMES, L.C.

By   
Mike Stott, Manager

STATE OF IOWA, COUNTY OF STORY )

This instrument was acknowledged before me on Dec. 6, 2004 by MIKE STOTT as MANAGER of SOUTH FORK TOWNHOMES, L.C..

Print name here:   
Notary Public in and for said State and County

